

Newly Released Delaware Corporate Law Amendments Would Permit Blockchain & Shares

March 15, 2017

The Corporate Council of the Corporation Law Section of the Delaware State Bar Association has released a long-awaited set of proposed amendments to the Delaware General Corporation Law (DGCL). The amendments are the latest step in the Delaware Blockchain Initiative, the state's program to welcome blockchain businesses and clarify its existing policies to give regulatory certainty to innovative companies. The new amendments, if approved by the Delaware General Assembly and enacted, would permit Delaware corporations to authorize and issue so-called "Distributed Ledger Shares" that could be authorized, issued, transferred, redeemed – living their entire life cycle – on a distributed ledger.

The amendments effect a fundamental change in the way that corporations may keep their books and records, in particular, the record of shareholders known as a "stock ledger". Sections 219 and 224 of the DGCL would be amended to permit the corporation to rely on the contents of a distributed ledger itself as the stock ledger. As amended, Section 219(c) would define "stock ledger" to include "one or more records *administered by or on behalf of* the corporation." As amended, Section 224 will provide that any records "*administered by or on behalf of* the corporation" may be "one or more distributed electronic networks or databases."

Not just any ledger will suffice however. The amendments would require that the ledger:

1. be convertible into clearly legible paper form within a reasonable time;
2. be able to be used to prepare the list of stockholders specified in Section 219 as well as in Section 220, dealing with stockholder demands to inspect the corporations books and records;
3. records the information specified in Section 156 for consideration for partly paid shares, Section 159 for the transfer of shares for collateral security, Section 217(a) for pledged shares, and Section 218 for voting trusts; and
4. records transfers of stock as governed by Article 8 of the Delaware Uniform Commercial Code.

Finally, amendments to Sections 151, 202 and 364 of the DGCL would explicitly permit "electronic transmission" of investor communication using a distributed ledger. [Read the full proposal.](#)

Rather than proposing sweeping changes to the structure of the DGCL, the Corporation Law Section's amendments clarify the application of existing law to new technology. If enacted, the amendments would pave the way for smart contract and token-based systems alike to clear and settle securities transactions entirely on a distributed ledger, without resort to the typical intermediaries or custodians.

Cooley named legal ambassadors to program

In 2016, Cooley's lawyers were named the state of Delaware's Legal Ambassadors to the Blockchain Industry, and have been among the architects of the Delaware Blockchain Initiative since its inception. For more information on how a company might use blockchain shares, please contact the lawyers listed here.

This content is provided for general informational purposes only, and your access or use of the content does not create an attorney-client relationship between you or your organization and Cooley LLP, Cooley (UK) LLP, or any other affiliated practice or entity (collectively referred to as "Cooley"). By accessing this content, you agree that the information provided does not constitute legal or other professional advice. This content is not a substitute for obtaining legal advice from a qualified attorney licensed in your jurisdiction, and you should not act or refrain from acting based on this content. This content may be changed without notice. It is not guaranteed to be complete, correct or up to date, and it may not reflect the most current legal developments. Prior results do not guarantee a similar outcome. Do not send any confidential information to Cooley, as we do not have any duty to keep any information you provide to us confidential. When advising companies, our attorney-client relationship is with the company, not with any individual. This content may have been generated with the

assistance of artificial intelligence (AI) in accordance with our AI Principles, may be considered Attorney Advertising and is subject to our [legal notices](#).

This information is a general description of the law; it is not intended to provide specific legal advice nor is it intended to create an attorney-client relationship with Cooley LLP. Before taking any action on this information you should seek professional counsel.

Copyright © 2023 Cooley LLP, 3175 Hanover Street, Palo Alto, CA 94304; Cooley (UK) LLP, 22 Bishopsgate, London, UK EC2N 4BQ. Permission is granted to make and redistribute, without charge, copies of this entire document provided that such copies are complete and unaltered and identify Cooley LLP as the author. All other rights reserved.